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SECOND UNITED NATIONS CONFERENCE TO REVIEW ALL ASPECTS
OF THE SET OF MULTILATERALLY AGREED EQUITABLE
PRINCIPLES AND RULES FOR THE CONTROL OF
RESTRICTIVE BUSINESS PRACTICES

Geneva, 26 November 1990
Agenda item 7 (b)

REPORT OF THE CREDENTIALS COMMITTEE

1. At its 4th plenary meeting on 29 November 1990, the Conference, in accordance with rule 5 of the rules of procedure, appointed nine members of the Credentials Committee: Brazil, China, Côte d'Ivoire, Ghana, Ireland, Sri Lanka, Union of Soviet Socialist Republics, United States of America, and Uruguay.
 2. The Committee held a meeting on 30 November 1990 and it unanimously elected Mr. R.N. Abeysekera (Sri Lanka) as Chairman.
 3. Credentials, in conformity with rule 4 of the rules of procedure, had been received for the representatives participating in the Conference.
 4. The Committee found the credentials of the representatives participating in the Conference to be in due and proper form, and recommends that they be accepted.
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United Nations Conference
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SECOND UNITED NATIONS CONFERENCE TO REVIEW ALL ASPECTS
OF THE SET OF MULTILATERALLY AGREED EQUITABLE
PRINCIPLES AND RULES FOR THE CONTROL OF
RESTRICTIVE BUSINESS PRACTICES
Geneva, 26 November 1990
Agenda items 8 and 10

RESOLUTION ADOPTED BY THE SECOND UNITED NATIONS CONFERENCE
TO REVIEW OF ALL ASPECTS OF THE SET OF MULTILATERALLY
AGREED EQUITABLE PRINCIPLES AND RULES FOR THE
CONTROL OF RESTRICTIVE BUSINESS PRACTICES

STRENGTHENING THE IMPLEMENTATION OF THE SET

The Second United Nations Conference to Review all Aspects of the Set of
Multilaterally Agreed Equitable Principles and Rules for the Control of
Restrictive Business Practices.

Having reviewed all aspects of the Set, 10 years after its adoption,

Reaffirming the importance of the Set of Multilaterally Agreed Equitable
Principles and Rules for the Control of Restrictive Business Practices ("the
Set") adopted by the General Assembly in its resolution 35/63 of
5 December 1980,

Further reaffirming the need to ensure that restrictive business
practices do not impede or negate the realization of benefits that should
arise from the liberalization of tariff and non-tariff barriers affecting
world trade, particularly those affecting the trade and development of
developing countries,

Recalling the agreement in the Final Act of the seventh session of the
United Nations Conference on Trade and Development, paragraph 105 (18), to
continue and strengthen the ongoing work in UNCTAD in respect of restrictive
business practices, particularly with a view to ensuring transparency and to
defining consultation procedures, and to continue the UNCTAD technical
assistance programme in the field of restrictive business practices,

Decides that the implementation of the Set should be strengthened and to this end:

1. Expresses concern at the continued existence of restrictive business practices adversely affecting international trade, particularly the trade and development of developing countries, and calls upon States to implement fully all provisions of the Set in order to ensure its effective application;
2. Considers that one of the important means of achieving this goal is the adoption and effective enforcement of national restrictive business practices legislation and that the increasing number of countries which have taken such action since the First Review Conference is an encouraging development, and therefore calls upon all States to adopt, improve and effectively enforce appropriate legislation and to implement judicial and administrative procedures;
3. Suggests to this end that:
 - (a) States without any legislation to control restrictive business practices may wish to request information on restrictive business practices legislation and seek consultations with developed and developing countries which have experience of introducing such laws, as well as appropriate technical assistance. The latter may consist of introductory seminars directed at an audience which would include government officials and academics, as well as business and consumer-oriented circles;
 - (b) States which are in the process of drafting restrictive business practice legislation or have recently done so may wish to request information on restrictive business practice legislation and consultations with countries having experience of such laws, as well as technical assistance. This may consist of advisory services and assistance, training workshops and seminars for national officials for implementing restrictive business practice control legislation and on-the-job training with restrictive business practice control authorities in countries having experience in restrictive business practice control;
 - (c) States which have already adopted such legislation and seek to enforce those laws more effectively, as well as all other States, may wish to seek information or consultations with other countries on general matters of restrictive business practice legislation, issues of importance to restrictive business practice authorities in actual enforcement and specific restrictive business practices cases. Such States may also seek appropriate technical assistance;
 - (d) Any State so addressed should give full and sympathetic consideration to such requests and supply such publicly available information, and, to the extent consistent with their laws and established public policy, other information;

Information

4. Considers that, in the light of States' needs for information, a list of RBP authorities through which requests for information should be channelled is a useful device for increasing the flow of information, and requests the Secretary-General of UNCTAD to issue a directory of restrictive business practices authorities and to update it regularly;

5. Considers further that it would be helpful for States requesting information to have guidance and requests the Secretary-General of UNCTAD to prepare an indicative checklist of items which may include inter alia:

- (a) A description of the restrictive business practice case in question;
- (b) The enterprises involved;
- (c) The legal basis for instituting proceedings;
- (d) The reasons for requesting the information;
- (e) The specific information sought;
- (f) The intended use of the information.

6. Requests, on the basis of paragraphs 2 and 3 of section F of the Set, that:

(a) States supply to the UNCTAD secretariat annually or as the information becomes available if appropriate, preferably in one of the official languages of the United Nations:

- (i) Information concerning new restrictive business practice legislation or amendments to existing laws, with a copy of the legislation or amendments;
- (ii) A report on their activities concerning the control of RBPs including details of the more important cases dealt with, as provided for in section F, paragraph 3 of the Set;
- (iii) Any relevant studies, guidelines or reports on restrictive business practices matters or details thereof which they may have published;

(b) The UNCTAD secretariat, on the basis of the information received and of other available information:

- (i) Maintain its data base and make it available to States upon request;
- (ii) Disseminate this information through appropriate publications;
- (iii) Complete and update the Handbook on restrictive business practices legislation;

Consultations

7. Considering that the existing provisions of the Set provide a good basis for consultations, emphasises the importance of section F, paragraph 4 of the Set and, in order to improve implementation of the Set in this respect, requests the UNCTAD secretariat to prepare a checklist of possible steps which countries may wish to follow in the preparation of a case, and in their request for consultation. Such a checklist could include, inter alia, explaining the reasons for the request for consultations, and indicating the specific details of the behaviour or activity about which the consultation is requested;

8. Recommends that, following a request for consultation, the State addressed should take whatever action it considers appropriate, including action under its legislation on restrictive business practices or administrative measures, on a voluntary basis and considering its legitimate interests;

9. Considers that the multilateral consultations, discussions and exchanges of views that have taken place under section G, paragraph 3 (a) of the Set among restrictive business practices experts at sessions of the Intergovernmental Group of Experts on Restrictive Business Practices have provided a useful forum for consideration of particular restrictive business practices issues and have served to establish important contacts between experts from interested countries, and requests the Intergovernmental Group of Experts to serve as a forum for exchanges of information and consultations at each of its sessions. Topics should be selected in advance of each session and time made available for the discussions;

Technical assistance

10. Recognises the importance of both bilateral and multilateral technical assistance as an important way to secure the implementation of the Set. Both types of technical assistance are especially effective in introducing large groups of officials from several countries to basic restrictive business practices control principles and have been very effective in providing in-depth technical co-operation between restrictive business practice control authorities, particularly where it can be tailored to specific needs;

11. Notes the commitment of States members of Group B to continue to provide technical assistance on both a bilateral and multilateral basis, subject to the availability of resources and tailored to the requirements of individual countries or groups of countries;

12. Concludes that the UNCTAD secretariat's proposals for a framework for technical assistance in its report TD/RBP/CONF.3/4 contain useful elements. In order to facilitate a meaningful evaluation of the secretariat's proposed framework, the secretariat should suggest priorities from among the different types of technical assistance set out in paragraph 71 of its report and taking into account the three categories of countries requesting assistance identified in paragraph 3 above;

13. Requests the UNCTAD secretariat to take into account the costs of the various types of technical assistance and the most effective use of resources and to undertake a regular evaluation of its technical assistance activities in order to determine their effectiveness;

14. Invites the UNCTAD secretariat to continue organizing national, regional and subregional seminars, workshops and symposia, as appropriate, including with respect to regional groupings of States willing to adopt restrictive business practices control systems;

15. Urges intergovernmental organizations and financing programmes, in particular the United Nations Development Programme (UNDP), to provide the necessary resources for the activities mentioned above;

16. Appeals to States, in particular developed countries, to increase voluntary financial contributions and to provide necessary expertise for the implementation of the activities mentioned above;

Review procedure

17. Recommends to the General Assembly that a Third Review Conference be convened in 1995.

6th (closing) meeting
7 December 1990